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ORIGINAL
FILED

SEP 27 2007

Attorneys for Petitioners
Graham SIMPSON, and
Barbara DAVISON

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

Graham SIMPSON, and
Barbara DAVISON

Case No. 07 5008

Petitioners,

v.

Robin BARRETT, in her Official Capacity, Field
Office Director, U.S. Citizenship and Immigration
Services, U.S. Department of Homeland Security, San
Francisco, California; Rosemary MELVILLE, in her
Official Capacity, District Director, U.S. Citizenship
and Immigration Services, U.S. Department of
Homeland Security, San Francisco, California; Emilio
T. GONZALEZ, in his Official Capacity, Director,
U.S. Citizenship and Immigration Services, U.S.
Department of Homeland Security; Michael
CHERTOFF, in his Official Capacity, Secretary, U.S.
Department of Homeland Security; Peter D.
KEISLER, in his Official Capacity, U.S. Attorney
General, U.S. Department of Justice; and Robert S.
MUELLER, III, in his Official Capacity, Director,
Federal Bureau of Investigation

Respondents.

DECLARATION OF
ZACHARY
NIGHTINGALE IN
SUPPORT OF PETITION
FOR WRIT OF
MANDAMUS

Immigration Case, Administrative
Procedure Act Case

Agency No.: A 98-256-652

DECLARATION OF ZACHARY NIGHTINGALE

I, Zachary Nightingale, hereby declare the following:

1. I am an attorney and partner at Van Der Hout, Brigagliano and Nightingale, LLP, 180 Sutter Street, Fifth Floor, San Francisco, CA 94104. I make this declaration in support of Petitioners Barbara DAVISON and Graham SIMPSON's Petition for Writ of Mandamus. Unless otherwise stated, I received the documents described from Petitioners in connection with Van Der Hout, Brigagliano and Nightingale's representation of him in this case.

2. Petitioner Simpson is a 49-year-old native and citizen of the United Kingdom. He first entered the United States on December 4, 1987 on a visitor's (B-2) visa. That visa was valid until June 3, 1988. On or about May 31, 1988, he filed an application to change his status of a treaty investor (E-2), based on his establishment of a restaurant in Kensington, California. That application was terminated on or about December 5, 1989. He has not left the United States since that date. A copy of Petitioner Simpson's Form I-94, authorizing these status changes, is attached as Exhibit A.

3. Petitioner Simpson married Petitioner Davison on October 11, 2002, in San Francisco, California. A copy of their marriage certificate is attached as Exhibit B.

4. On or about September 14, 2004, Petitioner Davison filed an I-130 Visa Petition on behalf of Petitioner Simpson to the United States Citizenship and Immigration Services ("U.S. CIS"), and Petitioner Simpson concurrently filed an adjustment of status application (Form I-485). A copy of the I-130 visa petition is attached as Exhibit C, and a copy of the adjustment application is attached as Exhibit D. The supporting documentation is not attached. A copy of a receipt from U.S. CIS, showing that the filing fee for the I-130 petition (\$185.00) and the adjustment of status application (\$315 and \$70 for fingerprinting) was paid on September 14, 2004, is attached as Exhibit E.

1 5. On or about November 12, 2004, Petitioners received a notice from U.S. CIS
2 that the application for adjustment of Status had been received. A copy of that notice is
3 attached as Exhibit F.

4 6. On or about February 9, 2005, Petitioners were interviewed at the USCIS San
5 Francisco District Office in regards to the adjustment application. A copy of their
6 interview notice is attached as Exhibit G.

7 7. After the interview on February 9, 2005, Petitioners were given a notice
8 informing them that the application would be adjudicated pending completion of the
9 background check. A copy of that notice is attached as Exhibit H. Petitioner Simpson
10 was also requested to complete a Form I-508A in support of his application for a treaty
11 investor (E) visa. A copy of the request and a confirmation by his prior counsel, showing
12 that the Form was submitted on February 18, 2005, is attached as Exhibit I.

13 8. According to the USCIS website, as of September 15, 2007, the agency's
14 processing timeframe for AOS applications, such as Petitioner Simpson's, is six months.
15 A copy of the U.S. CIS's processing time frames at the San Francisco district office is
16 attached as Exhibit J.

17
18 I declare under penalty of perjury that the above information is true and correct to the best of my
19 knowledge. Executed this 27th day of September, 2007 at San Francisco, California.

20 
21 _____
22 Zachary Nightingale
23 Declarant
24
25
26
27
28

EXHIBIT A

Warning - A nonimmigrant who accepts unauthorized employment is subject to deportation.

Important - Retain this permit in your possession; *you must surrender it when you leave the U.S.* Failure to do so may delay your entry into the U.S. in the future.

You are authorized to stay in the U.S. only until the date written on this form. To remain past this date, without permission from immigration authorities, is a violation of the law.

Surrender this permit when you leave the U.S.:

- By sea or air, to the transportation line;
- Across the Canadian border, to a Canadian Official;
- Across the Mexican border, to a U.S. Official.

Students planning to reenter the U.S. within 30 days to return to the same school, see "Arrival-Departure" on page 2 of Form I-20 prior to surrendering this permit.

Record of Changes

COSTA-2 on 12/5/88 ~~12/5/88~~ - 12/5/88
 EDStor 12/5/89 on 12/5/88 ~~12/5/88~~ - 12/5/88

Departure Record

Port:

Date:

Carrier:

Flight #/Ship Name:

NOTE: YOU MUST OBTAIN A NEW VISA TO REENTER THIS COUNTRY IN YOUR PRESENT STATUS.

EXHIBIT B

CITY and COUNTY of SAN FRANCISCO

LICENSE AND CERTIFICATE OF MARRIAGE 4 2 0 0 2 3 8 0 0 4 9 2 3

STATE FILE NUMBER		MUST BE LEGIBLE - MAKE NO ERASURES, WHITEOUTS OR OTHER				LOCAL REGISTRATION NUMBER	
GROOM PERSONAL DATA	1A. NAME OF GROOM - FIRST (GIVEN)	1B. MIDDLE	1C. LAST (FAMILY)		2. DATE OF BIRTH - MONTH, DAY, YEAR		
	GRAHAM	BARCLAY	SIMPSON		03/25/1958		
	3A. RESIDENCE - STREET AND NUMBER	3B. CITY	3C. ZIP CODE	3D. COUNTY - OUTSIDE CALIFORNIA, ENTER STATE	4. STATE OF BIRTH		
	919 SHEVLIN DR	EL CERRITO	94530	CONTRA COSTA	ENGLAND		
	5. MAILING ADDRESS - IF DIFFERENT	6. NUMBER OF PREVIOUS MARRIAGES	7A. LAST MARRIAGE ENDED BY:		7B. DATE - MONTH, DAY, YEAR		
-	1	<input type="checkbox"/> DEATH <input checked="" type="checkbox"/> DISSOLUTION <input type="checkbox"/> ANNULMENT		01/16/1990			
BRIDE PERSONAL DATA	8A. USUAL OCCUPATION	8B. USUAL KIND OF BUSINESS OR INDUSTRY		9. EDUCATION - YEARS COMPLETED			
	BUSINESS OWNER	RESTAURANT		14			
	10A. FULL NAME OF FATHER	10B. STATE OF BIRTH	11A. FULL MAIDEN NAME OF MOTHER		11B. STATE OF BIRTH		
	BARRIE SIMPSON	ENGLAND	DOREEN BROOME		ENGLAND		
	12A. NAME OF BRIDE - FIRST (GIVEN)	12B. MIDDLE	12C. CURRENT LAST (FAMILY)		12D. MAIDEN LAST (FAMILY) (IF DIFFERENT THAN 12C)		
BARBARA	JUNE	DAVISON		06/22/1951			
AFFIDAVIT	14A. RESIDENCE - STREET AND NUMBER	14B. CITY	14C. ZIP CODE	14D. COUNTY - OUTSIDE CALIFORNIA, ENTER STATE	15. STATE OF BIRTH		
	919 SHEVLIN DR	EL CERRITO	94530	CONTRA COSTA	MICHIGAN		
	16. MAILING ADDRESS - IF DIFFERENT	17. NUMBER OF PREVIOUS MARRIAGES	18A. LAST MARRIAGE ENDED BY:		18B. DATE - MONTH, DAY, YEAR		
	-	1	<input type="checkbox"/> DEATH <input checked="" type="checkbox"/> DISSOLUTION <input type="checkbox"/> ANNULMENT		04/22/1996		
	19A. USUAL OCCUPATION	19B. USUAL KIND OF BUSINESS OR INDUSTRY		20. EDUCATION - YEARS COMPLETED			
BUSINESS OWNER	HOME RENOVATION		16				
LICENSE TO MARRY	21A. FULL NAME OF FATHER	21B. STATE OF BIRTH	22A. FULL MAIDEN NAME OF MOTHER		22B. STATE OF BIRTH		
	JULIAN MAURICE DAVISON	ILLINOIS	GENEVA AUGUSTA BENNETT		KENTUCKY		
	WE, THE UNDERSIGNED, AN UNMARRIED MAN AND UNMARRIED WOMAN, STATE THAT THE FOREGOING INFORMATION IS CORRECT AND TRUE TO THE BEST OF OUR KNOWLEDGE AND BELIEF, THAT NO LEGAL OBJECTION TO THE MARRIAGE NOR TO THE ISSUANCE OF A LICENSE IS KNOWN TO US, AND HEREBY APPLY FOR A LICENSE AND A CERTIFICATE OF MARRIAGE.						
	23. SIGNATURE OF GROOM		24. SIGNATURE OF BRIDE				
	<i>[Signature]</i>		<i>[Signature]</i>				
WITNESS(ES) (ONE REQUIRED)	AUTHORIZATION AND LICENSE IS HEREBY GIVEN TO ANY PERSON DULY AUTHORIZED BY THE LAWS OF THE STATE OF CALIFORNIA TO PERFORM A MARRIAGE CEREMONY WITHIN THE STATE OF CALIFORNIA TO SOLEMNIZE THE MARRIAGE OF THE ABOVE NAMED PERSONS. REQUIRED CONSENTS FOR THE ISSUANCE OF THIS LICENSE ARE ON FILE.						
	25A. ISSUE DATE MONTH, DAY, YEAR	25B. LICENSE EXPIRES AFTER MONTH, DAY, YEAR	25C. LICENSE NUMBER		25D. COUNTY OF ISSUE		
	10/04/2002	01/02/2003	02-0005103-00		San Francisco		
	25E. NAME OF COUNTY CLERK		25F. SIGNATURE OF DEPUTY CLERK (IF APPLICABLE)				
	Carl Friedman		<i>[Signature]</i>				
CERTIFICATION OF PERSON SOLEMNIZING MARRIAGE	26A. SIGNATURE OF WITNESS	26B. ADDRESS - STREET AND NUMBER		26C. CITY, STATE AND ZIP CODE			
	<i>[Signature]</i>	1210 CORNELL AVE		Berkeley CA 94707			
	27A. SIGNATURE OF WITNESS	27B. ADDRESS - STREET AND NUMBER		27C. CITY, STATE AND ZIP CODE			
	<i>[Signature]</i>	1498 AQUA VISTA BL		RICHMOND CA 94805			
	28. I HEREBY CERTIFY THAT THE ABOVE-NAMED BRIDE AND GROOM WERE JOINED BY ME IN MARRIAGE IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA						
LOCAL REGISTRAR OF MARRIAGES (County Recorder)	29A. SIGNATURE OF PERSON SOLEMNIZING MARRIAGE		29B. RELIGIOUS DENOMINATION (IF CLERGY)		29C. NAME OF PERSON SOLEMNIZING MARRIAGE (TYPE OR PRINT)		
	<i>[Signature]</i>		-		FLORENCE P. GOLDBERG		
	29D. MAILING ADDRESS		29E. OFFICIAL TITLE		29F. ZIP CODE		
	CITY HALL, #168 SF CA		Dep. Mar. Com		94102		
	30A. SIGNATURE OF LOCAL REGISTRAR		30B. SIGNATURE OF DEPUTY (IF APPLICABLE)		31. DATE ACCEPTED FOR REGISTRATION		
<i>[Signature]</i>		<i>[Signature]</i> DEPUTY		OCT 15 2002			

82518

CERTIFIED COPY OF VITAL RECORDS

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

SS

This is a true and exact reproduction of the document officially registered and placed on file in the office of the SAN FRANCISCO ASSESSOR-RECORDER.

ATTEST:

DATE ISSUED: OCT 29 2002

This copy not valid unless prepared on engraved border displaying date and signature of Deputy Assessor-Recorder.

[Signature]
DORIS M. WARD
SAN FRANCISCO ASSESSOR-RECORDER

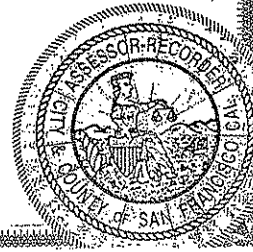


EXHIBIT C

DO NOT WRITE IN THIS BLOCK - FOR EXAMINING OFFICE ONLY

A#	Action Stamp	Fee Stamp
Section of Law/Visa Category <input type="checkbox"/> 201(b) Spouse - IR-1/CR-1 <input type="checkbox"/> 201(b) Child - IR-2/CR-2 <input type="checkbox"/> 201(b) Parent - IR-5 <input type="checkbox"/> 203(a)(1) Unm. S or D - F1-1 <input type="checkbox"/> 203(a)(2)(A) Spouse - F2-1 <input type="checkbox"/> 203(a)(2)(A) Child - F2-2 <input type="checkbox"/> 203(a)(2)(B) Unm. S or D - F2-4 <input type="checkbox"/> 203(a)(3) Married S or D - F3-1 <input type="checkbox"/> 203(a)(4) Brother/Sister - F4-1		Petition was filed on: _____ (priority date) <input type="checkbox"/> Personal Interview <input type="checkbox"/> Previously Forwarded <input type="checkbox"/> Pet. <input type="checkbox"/> Ben. "A" File Reviewed <input type="checkbox"/> I-485 Filed Simultaneously <input type="checkbox"/> Field Investigation <input type="checkbox"/> 204(g) Resolved <input type="checkbox"/> 203(a)(2)(A) Resolved <input type="checkbox"/> 203(g) Resolved
Remarks:		

A. Relationship You are the petitioner; your relative is the beneficiary.

1. I am filing this petition for my: <input checked="" type="checkbox"/> Husband/Wife <input type="checkbox"/> Parent <input type="checkbox"/> Brother/Sister <input type="checkbox"/> Child	2. Are you related by adoption? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	3. Did you gain permanent residence through adoption? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
---	--	--

B. Information about you

1. Name (Family name in CAPS)	(First)	(Middle)
DAVISON	Barbara	June
2. Address (Number and Street) (Apt. No.)		
919 Shevlin Drive		
(Town or City)	(State/Country)	(Zip/Postal Code)
El Cerrito	CA	94530
3. Place of Birth (Town or City) (State/Country)		
Niles MI USA		
4. Date of Birth (Month/Day/Year)	5. Gender <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	6. Marital Status <input checked="" type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced
06/22/1951		
7. Other Names Used (including maiden name)		
none		
8. Date and Place of Present Marriage (if married)		
10/11/2002; San Francisco, CA		
9. Social Security Number (if any)	10. Alien Registration Number	
365-54-7853		
11. Name(s) of Prior Husband(s)/Wife(s)	12. Date(s) Marriage(s) Ended	
Ray Turner	04/22/1996	

C. Information about your relative

1. Name (Family name in CAPS)	(First)	(Middle)
SIMPSON	Graham	Barclay
2. Address (Number and Street) (Apt. No.)		
919 Shevlin Drive		
(Town or City)	(State/Country)	(Zip/Postal Code)
El Cerrito	CA	94530
3. Place of Birth (Town or City) (State/Country)		
Hyde, Cheshire, England United Kingdom		
4. Date of Birth (Month/Day/Year)	5. Gender <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	6. Marital Status <input checked="" type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced
03/25/1958		
7. Other Names Used (including maiden name)		
none		
8. Date and Place of Present Marriage (if married)		
10/11/2002, San Francisco, CA		
9. Social Security Number (if any)	10. Alien Registration Number	
604-05-4471		
11. Name(s) of Prior Husband(s)/Wife(s)	12. Date(s) Marriage(s) Ended	
Marina Kalkanis	01/16/1990	

13. If you are a U.S. citizen, complete the following:

My citizenship was acquired through (check one):

☒ Birth in the U.S.

☐ Naturalization. Give certificate number and date and place of issuance.

☐ Parents. Have you obtained a certificate of citizenship in your own name?

☐ Yes. Give certificate number, date and place of issuance. ☐ No

14a. If you are a lawful permanent resident alien, complete the following:

Date and place of admission for, or adjustment to, lawful permanent residence and class of admission.

14b. Did you gain permanent resident status through marriage to a United States citizen or lawful permanent resident?

☐ Yes ☐ No

13. Has your relative ever been in the U.S.?

☒ Yes ☐ No

14. If your relative is currently in the U.S., complete the following:

He or she arrived as a: Visitor cos Treaty Investor (E2)
(visitor, student, stowaway, without inspection, etc.)

Arrival/Departure Record (I-94) Date arrived (Month/Day/Year)

1614 1468 7700 12/04/1987

Date authorized stay expired, or will expire, as shown on Form I-94 or I-95 12/05/1989

15. Name and address of present employer (if any)

Self - Kensington Circus Restaurant, 389 Colusa Avenue, Kensington, CA USA 94707

Date this employment began (Month/Day/Year)
07/22/1988

16. Has your relative ever been under immigration proceedings?

☒ No ☐ Yes Where _____ When _____
☐ Removal ☐ Exclusion/Deportation ☐ Recission ☐ Judicial Proceedings

INITIAL RECEIPT _____ RESUBMITTED _____ RELOCATED: Rec'd _____ Sent _____ COMPLETED: App'd _____ Denied _____ Ret'd _____

C. Information about your alien relative (continued)

17. List husband/wife and all children of your relative.

(Name)

(Relationship)

(Date of Birth) (Country of Birth)

none

18. Address in the United States where your relative intends to live.

(Street Address)

(Town or City)

(State)

919 Shevlin Drive

El Cerrito

CA

19. Your relative's address abroad. (Include street, city, province and country)

Phone Number (if any)

20. If your relative's native alphabet is other than Roman letters, write his or her name and foreign address in the native alphabet.

(Name)

Address (Include street, city, province and country):

21. If filing for your husband/wife, give last address at which you lived together. (Include street, city, province, if any, and country):

919 Shevlin Drive

From:

To:

(Month) (Year)

(Month) (Year)

El Cerrito

CA

USA

Jul. 2002

present

22. Complete the information below if your relative is in the United States and will apply for adjustment of status

Your relative is in the United States and will apply for adjustment of status to that of a lawful permanent resident at the office of the Immigration and

and Naturalization Service in San Francisco CA If your relative is not eligible for adjustment of status, he or she

(City)

(State)

will apply for a visa abroad at the American consular post in

(City)

(Country)

NOTE: Designation of an American embassy or consulate outside the country of your relative's last residence does not guarantee acceptance for processing by that post. Acceptance is at the discretion of the designated embassy or consulate.

D. Other information

1. If separate petitions are also being submitted for other relatives, give names of each and relationship.

n/a

2. Have you ever filed a petition for this or any other alien before? ☐ Yes ☒ No

If "Yes," give name, place and date of filing and result.

WARNING: INS investigates claimed relationships and verifies the validity of documents. INS seeks criminal prosecutions when family relationships are falsified to obtain visas.

PENALTIES: By law, you may be imprisoned for not more than five years or fined \$250,000, or both, for entering into a marriage contract for the purpose of evading any provision of the immigration laws. In addition, you may be fined up to \$10,000 and imprisoned for up to five years, or both, for knowingly and willfully falsifying or concealing a material fact or using any false document in submitting this petition.

YOUR CERTIFICATION: I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit that I am seeking.

E. Signature of petitioner.*Barbara J. Davis*

Date

9-8-04

Phone Number (510) 525-6705

F. Signature of person preparing this form, if other than the petitioner.

I declare that I prepared this document at the request of the person above and that it is based on all information of which I have any knowledge.

Print Name Martha E. Friedberg

Signature

Martha E. Friedberg

Date

09/08/2004

Address Attorney at Law, 1440 Broadway, Suite 615,

G-28 ID or VOLAG Number, if any. CA83433

Oakland, CA 94612

EXHIBIT D

START HERE - Please Type or Print**Part 1. Information About You.**

Family Name Simpson	Given Name Graham	Middle Initial B
Address - C/O		
Street Number and Name 919 Shevlin Drive		Apt. #
City El Cerrito		
State CA	Zip Code 94530	
Date of Birth (month/day/year) 03/25/1958	Country of Birth United Kingdom	
Social Security # 604-05-4471	A # (if any)	
Date of Last Arrival (month/day/year) 12/04/1987	I-94 # 61414687700	
Current INS Status E2	Expires on (month/day/year) 12/05/1989	

Part 2. Application Type. (check one)

I am applying for an adjustment to permanent resident status because:

- a. ☒ an immigrant petition giving me an immediately available immigrant visa number has been approved. (Attach a copy of the approval notice-- or a relative, special immigrant juvenile or special immigrant military visa petition filed with this application that will give you an immediately available visa number, if approved.)
- b. ☐ my spouse or parent applied for adjustment of status or was granted lawful permanent residence in an immigrant visa category that allows derivative status for spouses and children.
- c. ☐ I entered as a K-1 fiancé(e) of a U.S. citizen whom I married within 90 days of entry, or I am the K-2 child of such a fiancé(e). [Attach a copy of the fiancé(e) petition approval notice and the marriage certificate.]
- d. ☐ I was granted asylum or derivative asylum status as the spouse or child of a person granted asylum and am eligible for adjustment.
- e. ☐ I am a native or citizen of Cuba admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.
- f. ☐ I am the husband, wife or minor unmarried child of a Cuban described in (e) and am residing with that person, and was admitted or paroled into the U.S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least one year.
- g. ☐ I have continuously resided in the U.S. since before January 1, 1972.
- h. ☐ Other basis of eligibility. Explain. (If additional space is needed, use a separate piece of paper.)

I am already a permanent resident and am applying to have the date I was granted permanent residence adjusted to the date I originally arrived in the U.S. as a nonimmigrant or parolee, or as of May 2, 1964, whichever date is later, and: (Check one)

- i. ☐ I am a native or citizen of Cuba and meet the description in (e), above.
- j. ☐ I am the husband, wife or minor unmarried child of a Cuban, and meet the description in (f), above.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
Applicant Interviewed	
Section of Law <input type="checkbox"/> Sec. 209(b), INA <input type="checkbox"/> Sec. 13, Act of 9/11/57 <input type="checkbox"/> Sec. 245, INA <input type="checkbox"/> Sec. 249, INA <input type="checkbox"/> Sec. 2 Act of 11/2/66 <input type="checkbox"/> Sec. 2 Act of 11/2/66 <input type="checkbox"/> Other _____	
Country Chargeable	
Eligibility Under Sec. 245 Approved Visa Petition Dependent of Principal Alien Special Immigrant Other _____	
Preference	
Action Block	
To be Completed by Attorney or Representative, if any <input checked="" type="checkbox"/> Fill in box if G-28 is attached to represent the applicant. VOLAG# _____	
ATTY State License # CA83433	

Continued on back

Part 3. Processing Information. (Continued)

Please answer the following questions. (If your answer is "Yes" to any one of these questions, explain on a separate piece of paper. Answering "Yes" does not necessarily mean that you are not entitled to adjust your status or register for permanent residence.)

1. Have you ever, in or outside the U. S.:
 - a. knowingly committed any crime of moral turpitude or a drug-related offense for which you have not been arrested? ☐ Yes ☒ No
 - b. been arrested, cited, charged, indicted, fined or imprisoned for breaking or violating any law or ordinance, excluding traffic violations? ☐ Yes ☒ No
 - c. been the beneficiary of pardon, amnesty, rehabilitation decree, other act of clemency or similar action? ☐ Yes ☒ No
 - d. exercised diplomatic immunity to avoid prosecution for a criminal offense in the U. S.? ☐ Yes ☒ No
2. Have you received public assistance in the U.S. from any source, including the U.S. government or any state, county, city or municipality (other than emergency medical treatment), or are you likely to receive public assistance in the future? ☐ Yes ☒ No
3. Have you ever:
 - a. within the past ten years been a prostitute or procured anyone for prostitution, or intend to engage in such activities in the future? ☐ Yes ☒ No
 - b. engaged in any unlawful commercialized vice, including, but not limited to, illegal gambling? ☐ Yes ☒ No
 - c. knowingly encouraged, induced, assisted, abetted or aided any alien to try to enter the U.S. illegally? ☐ Yes ☒ No
 - d. illicitly trafficked in any controlled substance, or knowingly assisted, abetted or colluded in the illicit trafficking of any controlled substance? ☐ Yes ☒ No
4. Have you ever engaged in, conspired to engage in, or do you intend to engage in, or have you ever solicited membership or funds for, or have you through any means ever assisted or provided any type of material support to, any person or organization that has ever engaged or conspired to engage, in sabotage, kidnapping, political assassination, hijacking or any other form of terrorist activity? ☐ Yes ☒ No
5. Do you intend to engage in the U.S. in:
 - a. espionage? ☐ Yes ☒ No
 - b. any activity a purpose of which is opposition to, or the control or overthrow of, the government of the United States, by force, violence or other unlawful means? ☐ Yes ☒ No
 - c. any activity to violate or evade any law prohibiting the export from the United States of goods, technology or sensitive information? ☐ Yes ☒ No
6. Have you ever been a member of, or in any way affiliated with, the Communist Party or any other totalitarian party? ☐ Yes ☒ No
7. Did you, during the period from March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ever order, incite, assist or otherwise participate in the persecution of any person because of race, religion, national origin or political opinion? ☐ Yes ☒ No
8. Have you ever engaged in genocide, or otherwise ordered, incited, assisted or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin or political opinion? ☐ Yes ☒ No
9. Have you ever been deported from the U.S., or removed from the U.S. at government expense, excluded within the past year, or are you now in exclusion or deportation proceedings? ☐ Yes ☒ No
10. Are you under a final order of civil penalty for violating section 274C of the Immigration and Nationality Act for use of fraudulent documents or have you, by fraud or willful misrepresentation of a material fact, ever sought to procure, or procured, a visa, other documentation, entry into the U.S. or any immigration benefit? ☐ Yes ☒ No
11. Have you ever left the U.S. to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☒ No
12. Have you ever been a J nonimmigrant exchange visitor who was subject to the two-year foreign residence requirement and not yet complied with that requirement or obtained a waiver? ☐ Yes ☒ No
13. Are you now withholding custody of a U.S. citizen child outside the U.S. from a person granted custody of the child? ☐ Yes ☒ No
14. Do you plan to practice polygamy in the U.S.? ☐ Yes ☒ No

Continued on back

Form I-485 (Rev. 02/07/00)N Page 3

Part 3. Processing Information

A. City/Town/Village of Birth Hyde		Current Occupation restaurant owner	
Your Mother's First Name Doreen		Your Father's First Name Barrie	
Give your name exactly how it appears on your Arrival /Departure Record (Form I-94) Simpson Graham			
Place of Last Entry Into the U.S. (City/State) Los Angeles, CA		In what status did you last enter? (Visitor, student, exchange alien, crewman, temporary worker, without inspection, etc.) Visitor	
Were you inspected by a U.S. Immigration Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Consulate Where Visa Was Issued London	
Nonimmigrant Visa Number 709665		Marital Status <input checked="" type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed	
Date Visa Was Issued (month/day/year) 03/18/1985	Sex: <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		
Have you ever before applied for permanent resident status in the U.S.? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If you checked "Yes," give date and place of filing and final disposition.			

B. List your present husband/wife and all your sons and daughters. (If you have none, write "none." If additional space is needed, use a separate piece of paper.)

Family Name Davison	Given Name Barbara	Middle Initial J	Date of Birth (month/day/year) 06/22/1951
Country of Birth USA	Relationship Spouse	A #	Applying with You? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Family Name none	Given Name none	Middle Initial	Date of Birth (month/day/year)
Country of Birth	Relationship	A #	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)
Country of Birth	Relationship	A #	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)
Country of Birth	Relationship	A #	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)
Country of Birth	Relationship	A #	Applying with You? <input type="checkbox"/> Yes <input type="checkbox"/> No

C. List your present and past membership in or affiliation with every political organization, association, fund, foundation, party, club, society or similar group in the United States or in other places since your 16th birthday. Include any foreign military service in this part. If none, write "none." Include the name(s) of the organization(s), location(s), dates of membership from and to, and the nature of the organization(s). If additional space is needed, use a separate piece of paper.

None

Part 4. Signature. (Read the information on penalties in the instructions before completing this section. You must file this application while in the United States.)

I certify, under penalty of perjury under the laws of the United States of America, that this application and the evidence submitted with it is all true and correct. I authorize the release of any information from my records which the INS needs to determine eligibility for the benefit I am seeking.

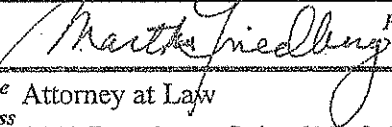
Selective Service Registration. The following applies to you if you are a man at least 18 years old, but not yet 26 years old, who is required to register with the Selective Service System: I understand that my filing this adjustment of status application with the Immigration and Naturalization Service authorizes the INS to provide certain registration information to the Selective Service System in accordance with the Military Selective Service Act. Upon INS acceptance of my application, I authorize INS to transmit to the Selective Service System my name, current address, Social Security number, date of birth and the date I filed the application for the purpose of recording my Selective Service registration as of the filing date. If, however, the INS does not accept my application, I further understand that, if so required, I am responsible for registering with the Selective Service by other means, provided I have not yet reached age 26.

Signature	Print Your Name	Date	Daytime Phone Number
	Graham B. Simpson	9/8/04	(510) 525-6705

Please Note: If you do not completely fill out this form or fail to submit required documents listed in the instructions, you may not be found eligible for the requested benefit and this application may be denied.

Part 5. Signature of Person Preparing Form, If Other Than Above. (Sign Below)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature	Print Your Name	Date	Daytime Phone Number
	Martha E. Friedberg	09/08/2004	(510) 763-2112

Firm Name and Address Attorney at Law
1440 Broadway, Suite 615, Oakland, CA 94612

EXHIBIT E

US DHS
SAN FRANCISCO
RETAIN THIS RECEIPT

9:06AM Ser 14/04
00-0000 001 SFR-LL
#04438

A # 0000000000
Last Name SIMPSON
First Name GRAHAM

I-485 \$315.00
FP-Fee/FD258 \$70.00
I-130 SPOUSE \$185.00
I-765 \$175.00

*TTL \$745.00
Check \$70.00
Check \$175.00
Check \$185.00
Check \$315.00

Official
Document

EXHIBIT F

U.S. Department of Homeland Security
630 Sansome Street
San Francisco, CA 94111



U.S. Citizenship
and Immigration
Services

Notice of Receipt

Date: 11/12/2004

A No: 98-256-652 / COA: IR6

Name: SIMPSON, GRAHAM

Address: 919 SHEVLIN DRIVE
EL CERRITO, CA 94530

Your Form I-485 Application for Adjustment of Status has been received and accepted. Your interview appointment notice will be mailed to you separately. If you also applied for employment authorization and/or advance parole, notices for appearing to receive these benefits, if approved, are also enclosed.

Please carefully review all of the other material enclosed. It may include requests for evidence and documentation you must bring with you to your interview on the date assigned. Failure to bring all requested evidence and documents to your adjustment of status interview could result in immediate denial of your adjustment application. DO NOT mail documents to this office unless advised to do so.

NOTICE: You must not depart the United States without written permission from the Service while your application is pending. If you depart without permission your application will be denied. You may apply for advance parole to re-enter the United States to continue processing your application.

ADVISORY: If after April 1, 1997, you were unlawfully present in the United States for more than 180 days before filing for adjustment of status, you may be found inadmissible under Section 212(a)(9)(B)(I) of the Act when returning to the United States. If you are found inadmissible, you will need to qualify for a waiver of inadmissibility before your adjustment of status can be approved.

CHANGE OF ADDRESS: The change of address form included with this receipt is for your use to notify this office of any change of address. Please retain a copy for your records. Failure to notify this office in a timely manner of any change of address may result in denial of your applications for adjustment of status and employment authorization (EAD).

For: David N. Still, District Director

www.uscis.gov

EXHIBIT G

U.S. CITIZENSHIP AND IMMIGRATION SERVICES
630 SANSOME STREET
SAN FRANCISCO, CALIFORNIA 94111

MARTHA E. FRIEDBERG
1440 BROADWAY, STE. 615
OAKLAND, CA 94612

FILE NUMBER: A 98 256 652
DATE: 01/07/2005

RE: GRAHAM SIMPSON

Please come to the office shown below at the time and place indicated in connection with an official matter.

OFFICE LOCATION: 630 SANSOME STREET, ROOM 255
SAN FRANCISCO, CA 94111

DATE AND TIME: 02/09/2005
10 : 30 AM

OFFICER: D52 HOSHINO
GD3

REASON FOR APPOINTMENT: APPLICATION FOR ADJUSTMENT OF STATUS

THIS INTERVIEW WILL BE VIDEO TAPED.

PLEASE BRING ALL ITEMS THAT ARE CHECKED (X) TO THE INTERVIEW.

- ☒ This letter, all passports, your I-94 arrival/departure form, if any, and INS approval notices and INS issued documents.
- ☒ Current photo I.D and proof of petitioners U.S. Citizenship /Lawful Resident status. PETITIONERS MUST APPEAR IN SPOUSAL CASES.
- ☒ A Current letter of employment for both spouses showing rate of pay and hours per week.
- ☒ The three (3) most current Federal 1040 Tax Returns and W-2's.
- ☒ Evidence supporting bona fides of the marital relationship, e.g. photos, bank stmts., leases, insurance policies, other.
- ☒ Certified, complete court records for any arrests. Original birth/marriage/divorce certificates for you, spouse, children.
- ☒ If you do not wish to surrender originals, bring legible photo copies.

DUE TO SECURITY PROCEDURES, PLEASE ARRIVE 30 MINUTES EARLY with a valid PASSPORT; STATE I.D., OR INS ISSUED VALID EAD OR PERMANENT RESIDENT CARD. Failure to appear or to bring requested documents may result in delay or denial of your application. If you do not appear on time you may rescheduled.

If you do not speak English, you must bring a disinterested 3rd party to interpret, with valid ID (Not attorney or petitioner)
ATTORNEY NOTIFIED: MARTHA E. FRIEDBERG

PC10

EXHIBIT H

U.S. Department of Homeland Security
San Francisco, CA 94111

Nanthe E. Friedberg



U.S. Citizenship
and Immigration
Services

98 250 652

E-11()

THIS LETTER IS IN REFERENCE TO YOUR APPLICATION FOR PERMANENT RESIDENCE.
YOUR CASE HAS BEEN CONTINUED FOR THE REASON(S) CHECKED BELOW.

☐ Visa Availability ☐ Fingerprints ☒ Security Clearance(s) ☐ A-file(s) ☐ Further Review
☐ Documentation (listed below) ☐ Other:

IT IS REQUESTED THAT YOU SUBMIT THE FOLLOWING DOCUMENTS:

YOU ARE ADVISED THAT YOU ARE GRANTED A PERIOD OF NINETY (90) DAYS FROM THE DATE
OF THIS LETTER TO SUBMIT THE REQUESTED DOCUMENTS.

FAILURE TO COMPLY WITH THIS REQUEST WILL BE DEEMED GROUNDS FOR DENIAL OF YOUR
APPLICATION FOR LACK OF PROSECUTION.

Sincerely,

David N. Still
David N. Still
District Director

PLEASE SEND REQUESTED DOCUMENTS
WITH A COPY OF THIS LETTER TO:

Citizenship and Immigration Service
630 Sansome Street, Room 300
San Francisco, CA 94111
ATTN: E11 /

cc: *Graham B. Simpson*

EXHIBIT I

Mantha E. Friedberg

U.S. Citizenship
and Immigration
Services

98 250 652

E-11()

THIS LETTER IS IN REFERENCE TO YOUR APPLICATION FOR PERMANENT RESIDENCE.
YOUR CASE HAS BEEN CONTINUED FOR THE REASON(S) CHECKED BELOW.

☐ Visa Availability ☐ Fingerprints ☒ Security Clearance(s) ☐ A-file(s) ☐ Further Review
☒ Documentation (listed below) ☐ Other:

IT IS REQUESTED THAT YOU SUBMIT THE FOLLOWING DOCUMENTS:

*needed. E2 Nonimmigrants must complete FORM I-508
prior to adjustment of status. Please
complete the enclosed FORM.*

*2/13/05 I 508 is done
M. Friedberg*

YOU ARE ADVISED THAT YOU ARE GRANTED A PERIOD OF NINETY (90) DAYS FROM THE DATE
OF THIS LETTER TO SUBMIT THE REQUESTED DOCUMENTS.

FAILURE TO COMPLY WITH THIS REQUEST WILL BE DEEMED GROUNDS FOR DENIAL OF YOUR
APPLICATION FOR LACK OF PROSECUTION.

PLEASE SEND REQUESTED DOCUMENTS
WITH A COPY OF THIS LETTER TO:

Sincerely,

David N. Still
District Director

Citizenship and Immigration Service
630 Sansome Street, Room 300
San Francisco, CA 94111
ATTN: E11 /

cc: *Graham B. Simpson*

EXHIBIT J

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U.S. Citizenship and Immigration Services San Francisco CA Processing Dates Posted September 15, 2007

Notice: U.S. Citizenship and Immigration Services (USCIS) has improved the reporting procedure for processing times of immigration benefit applications. In the past, USCIS benefit processing reports indicated the specific type of applications or petitions that were being processed and the date the cases were received. However, the date the case was received did not provide a clear indication of when USCIS expected to complete the case, nor did it provide a clear indication of USCIS' commitment to process cases within a certain cycle time. It also did not align with the processing times and cycle times the agency reports in other contexts.

This improved reporting procedure is an effort to give our customers more accurate information that better reflects current processing time and USCIS service level commitments. Effective immediately, when we are completing applications and petitions within our service level goals we will report the USCIS service level commitment. For example, when our service level goal is to process a particular kind of case within six months, and if our processing time is six months or less, we will show "6 months".

When we are not meeting our service level goal, the date posted will reflect the filing date of cases that are being completed. It should be noted that while in some instances reported processing dates may appear to have regressed due to this change, they do not reflect a lengthening of USCIS processing times, but simply the change in reporting. Our goal is to provide accurate projections and thus give customers clear expectations as to what they can expect as a processing time.

There are several important exceptions to the processing times shown below:

- Case processing will be delayed if we must ask you for more evidence or information. If we ask for missing required initial evidence, count the processing time from when we receive that missing evidence.
- The case processing timeframe will start over if a customer doesn't appear for an interview or asks that it be rescheduled.

What if I have a problem or have questions about a case?

We offer a variety of services after you file. For example, for most kinds of cases you can check the status of your case online.

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our fact sheet –

Case Services - How do I... know what kind of services are available to me after I file my application or petition?

One additional point about these projections. They are the time to complete processing and mail the actual notice and/or document. If you check case status online and see that your case has been approved, and you haven't yet received your approval notice or document in the mail, we ask that you wait thirty days from the approval date before contacting us. That is because it may take that long before it is returned to us as undeliverable. You can also print the case status online answer for your records.

District Office Processing Dates for **San Francisco CA** Posted September 15, 2007

Form	Description	Processing Timeframe
I-131	Application for Travel Documents	3 Months
I-485	Application to Register Permanent Residence or Adjust Status	6 Months
I-600	Petition to Classify Orphan as an Immediate Relative	May 13, 2007
I-600A	Application for Advance Processing of Orphan Petition	May 13, 2007
I-765	Application for Employment Authorization	11 Weeks
N-400	Application for Naturalization	7 Months
N-600	Application for Certification of Citizenship	May 30, 2007

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09-24-2007 07:44 PM EDT

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U.S. Department of Homeland Security

PROOF OF SERVICE BY MAIL

I, Zachary Nightingale, the undersigned, say:

I am over the age of eighteen years and not a party to the within action or proceedings; my business address is Van Der Hout, Brigagliano & Nightingale, LLP, 180 Sutter Street, Fifth Floor, San Francisco, CA 94104.

On September 27, 2007, I caused to be served the within:

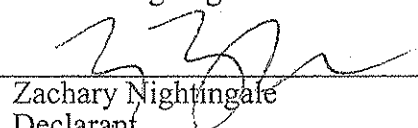
DECLARATION OF ZACHARY NIGHTINGALE

IN SUPPORT OF PETITION FOR WRIT OF MANDAMUS, AND EXHIBITS

on the opposing counsel by depositing one copy thereof, enclosed in a sealed envelope with postage fully pre-paid, in a mailbox regularly maintained by the United States Postal Service at San Francisco, California, addressed as follows:

Civil Process Clerk
Office of the U.S. Attorney
Northern District of California
450 Golden Gate Avenue,
Tenth Floor, Box 36055
San Francisco, CA 94102

Executed on September 27, 2007, at San Francisco, California. I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.


Zachary Nightingale
Declarant